

**IOWA DEPARTMENT OF NATURAL RESOURCES
ADMINISTRATIVE CONSENT ORDER**

IN THE MATTER OF:

**BEMIS CLYSAR, INC.
NPDES Permit #2326108**

**ADMINISTRATIVE CONSENT
ORDER
NO. 2010-WW-13**

TO: Robert Foster
Environmental Manager
Bemis Clysar, Inc.
P.O. Box 2951
Clinton IA 52733

I. SUMMARY

This administrative consent order (Order) is entered into between Bemis Clysar, Inc. and the Iowa Department of Natural Resources (DNR) for the purpose of resolving violations of NPDES Permit # 2326108. The parties have agreed to the provisions below.

Any questions regarding this Order should be directed to:

Relating to technical requirements:

Jim Sievers, Environmental Specialist
DNR Field Office #6
1023 W. Madison
Washington, Iowa 52353-1623
Phone: 319-653-2135

Relating to legal requirements:

Jon Tack, Attorney for the DNR
Iowa Department of Natural Resources
502 E. 9th Street
Des Moines, Iowa 50319
Phone: 515-281-8889

Payment of penalty to:

Director of the Iowa DNR
Wallace State Office Building
502 East Ninth Street
Des Moines, Iowa 50319-0034

II. JURISDICTION

This Order is issued pursuant to the provisions of Iowa Code section 455B.175(1), which authorizes the Director to issue any order necessary to secure compliance with or prevent a violation of Iowa Code Chapter 455B, Division III, Part 1 (wastewater) and the rules adopted or permits issued pursuant to that part, and Iowa Code section 455B.109 and 567 Iowa Administrative Code (IAC) Chapter 10, which authorize the Director to assess administrative penalties.

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III. STATEMENT OF FACTS

The DNR and Bemis Clysar, Inc. agree to the following statement of facts:

1. Bemis Clysar, Inc. owns and operates a manufacturing facility in Clinton, Iowa. Bemis Clysar, Inc. uses water in the facility for various uses including non-contact cooling water, softened contact cooling water, and treatment effluent from an activated sludge wastewater treatment plant. The wastewater from these systems is discharged through multiple outfalls pursuant to NPDES Permit # 2326108.
2. On February 2, 2010 Environmental Specialist Jim Sievers conducted a routine inspection of the Bemis Clysar, Inc. facility, including a review of the discharge monitoring reports. The review disclosed multiple effluent violations that had occurred from Outfall 006 of the activated sludge plant during 2009. The monitoring data showed the facility to be discharging pollutants in excess of applicable permit limits. The facility is in significant noncompliance in regard to multiple parameters including carbonaceous biochemical oxygen demand (CBOD), Total Residual Chlorine (TRC) and Total Suspended Solids (TSS).
3. Through April 30th, 2010, Bemis Clysar, Inc. continues to report effluent violations including violations of effluent limitations for CBOD, TRC and TSS.

IV. CONCLUSIONS OF LAW

The DNR and Bemis Clysar, Inc. agree that the following conclusions of law are applicable to this Order:

1. Iowa Code section 455B.186 prohibits the discharge of pollutants into waters of the state, except for adequately treated pollutants discharged pursuant to a permit. The discharge of pollutants in excess of permitted limits is contrary to this provision.
2. Iowa Code section 455B.173(3) authorizes and requires the Environmental Protection Commission (Commission) to promulgate rules relating to the operation of waste disposal systems, the discharge of pollutants into waters of the state, and the issuance of permits to waste disposal systems. The Commission has done so at 567 IAC Chapters 60 through 69.
3. Subrule 64.3(1) prohibits the operation of a waste disposal system without or contrary to the terms of a permit. Subrule 64.6 specifies the conditions that are to be included in a permit, including applicable effluent limitations as established in chapters 61 and 62 of the rules. The above-stated facts establish multiple violations of the effluent limits of NPDES Permit No. 2326108.

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V. ORDER

The DNR orders and Bemis Clysar, Inc. agrees to the following schedule:

1. By August 1, 2010, Bemis Clysar, Inc. shall submit a plan of action prepared by an Iowa-licensed profession engineer that shall include recommended actions to achieve and maintain compliance with NPDES Permit No. 2326108. The plan of action shall also include an implementation schedule.

2. By August 1, 2010, Bemis Clysar, Inc. shall pay an administrative penalty in the amount of \$9,000.

VI. PENALTY

1. Iowa Code section 455B.191 authorizes the assessment of civil penalties of up to \$5,000.00 per day of violation for the violations involved in this matter.

2. Iowa Code section 455B.109 authorizes the Commission to establish by rule a schedule of civil penalties up to \$10,000 that may be assessed administratively. The Commission has adopted this schedule with procedures and criteria for assessment of penalties at IAC Chapter 567 - 10. Pursuant to this chapter, the DNR has determined that the most effective and efficient means of addressing the above-cited violations is the issuance of an Order with stipulated penalties.

a. Economic Benefit. Bemis Clysar, Inc. has achieved an economic benefit from the failure to comply with effluent limitations. Bemis Clysar, Inc. has failed to expend the necessary funds to address the system deficiencies or to retain and truck the wastewater until such time as the effluent violations could be corrected. For the purpose of resolving this matter consensually, the parties agree to the assessment of a penalty of \$3,000 for this factor.

b. Gravity of the Violation. Bemis Clysar, Inc. violated effluent limitations in every month of 2009, except September. There were a total of 58 distinct permit limit violations covering 4 separate parameters. Reported pollutant levels were several times higher than the level determined to be harmful to aquatic life. One of the factors to be considered in determining the gravity of a violation is the amount of penalty authorized by the Iowa Code for the type of violation. As indicated above, substantial civil penalties are authorized by statute. For the purpose of resolving this matter consensually, the parties agree to the assessment of a penalty of \$3,000 for this factor.

c. Culpability. Bemis Clysar, Inc. was aware of the significant noncompliance upon receipt of the monitoring reports for January 2009 yet failed to take necessary response actions for over a year. Instead, Bemis Clysar, Inc. knowingly discharged in violation of its NPDES permit. For the purpose of resolving this matter consensually, the parties agree to the assessment of a penalty of \$3,000 for this factor.

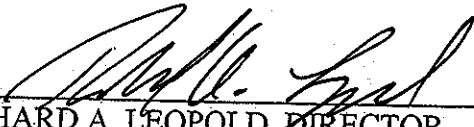
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VII. WAIVER OF APPEAL RIGHTS

This Order is entered into knowingly by and with the consent of Bemis Clysar, Inc. For that reason, Bemis Clysar, Inc. waives the right to appeal this Order or any part thereof.

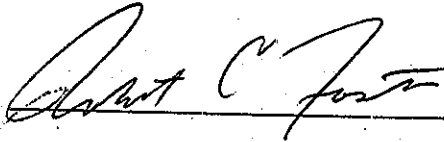
VIII. NONCOMPLIANCE

Failure to comply with this Order may result in the imposition of administrative penalties or referral to the Attorney General to obtain injunctive relief and civil penalties pursuant to Iowa Code section 455B.191. Compliance with section V. Order, of this Order constitutes full satisfaction of all requirements pertaining to the violations described in section "TV. Conclusions of Law" of this Order.



RICHARD A. LEOPOLD, DIRECTOR
Iowa Department of Natural Resources

Dated this 27 day of
July, 2010



Bemis Clysar, Inc.

Dated this 14 day of
July, 2010

NPDES #2326108; Field Office #6; Jon Iack; EPA; Wendy Hieb; I.B.2(c)